

REMARKS

Claims 1-36 are pending and under consideration in the application. Various sets of these claims stand rejected under 35 U.S.C. 103, based upon varied combinations of the prior art. For the reasons discussed below, it is believed that all rejections in the application have been overcome. Reconsideration and allowance of the application are thus solicited.

Independent claims 13, 21 and 34 have been amended to recite “a plurality of video kiosks distributed across multiple locations”, similar to the language in original claim 1. These amendments introduce no new subject matter, and their entry is solicited.

Claims 1-4, 6-18, 20-26, 28-31, 33-35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Salmon (US Pat. No. 5,592,375) in view of Hoyt (US Pat. No. 6,085,195). This rejection is respectfully traversed.

The independent claims in the above group are claims 1, 13, 21 and 34. Each independent claim requires “a plurality of kiosks”, and further that such kiosks are “distributed across multiple locations”, in combination with the other claimed features. In rejecting these claims under 35 U.S.C. 103, the Office Action asserts that Salmon discloses “video kiosks are operative to record a plurality of videos (C6, L13-18)...”. It is respectfully submitted that Salmon does not contain this disclosure. To the contrary, where a kiosk is mentioned, only a single kiosk is identified. For example, at C6, L14, Salmon discloses only the potential use of an “automated kiosk”. This is consistent, for example, with the use of a single kiosk at a dedicated location within the potential buyer’s (employer’s) offices. Salmon thus does not disclose “a plurality of kiosks” as in the independent claims of the present application. Further, fairly considered, Salmon does not direct those of ordinary skill in the art to deploy a plurality of kiosks as in the claims. Instead, Salmon directs its teachings more toward a more simple system

– the use of a diskette-based applications to be run at the seller’s or buyer’s own computer. See, C6, L10-13; C14, L2-25.

The Office Action relies upon the teachings of Hoyt, combined with those of Salmon, to meet the claimed feature of the kiosks being distributed across multiple locations. As supposed motivation for the combination, the Office Action asserts “the motivation of providing a user with a conveniently located kiosk”. However, this is in direct contrast to the teachings of Salmon toward a simpler and even more convenient location – at the user’s own computer. Further, it is submitted that combination based upon this motivation improperly relies upon hindsight, taking the Applicants’ own disclosure into account. As directed by the Court of Appeals for the Federal Circuit in the case of *In re Dembiczak*, obviousness determinations must be performed without “entry into the ‘tempting but forbidden zone of hindsight.’” *In re Dembiczak*, 50 U.S.P.Q. 2d at 1616 (Fed. Cir. 1999). More specifically, in *Dembiczak*, the court offered the following guidance:

[m]easuring a claimed invention against the standard established by section 103 requires the oft-difficult but critical step of casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. . . .

Dembiczak, 50 U.S.P.A. 2d at 1617. In the present case, the primary reference, Salmon, offers an alternative, more simple approach to that claimed – the use of a user’s own personal computer. No criticism of that approach is provided in the Office Action, that would lead one skilled in the art to seek a combination with the “Internet Photo Booth” taught in Hoyt. Added to this shortcoming is the fact that Hoyt does not teach relative to the field of recruiting or similar endeavors. Rather, users pay at the kiosk of Hoyt to have their picture taken. It is submitted that

in view of these factors, reliance of the combination of Hoyt and Salmon to reach the present claims improperly utilizes hindsight analysis.

Each of the remainder of the claims subject to this rejection are dependent upon one of the independent claims, and is allowable at least for the reasons discussed above.

For these reasons, the rejection of claims 1-4, 6-18, 20-26, 28-31, and 33-35 over the combination of Salmon and Hoyt is not properly supported, and its withdrawal is solicited.

Claims 5, 19 and 32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Salmon in view of Hoyt in view of Cascio (Managing Human Resources: Productivity, Quality of Work Life, Profits. 1998. The McGraw-Hill Companies, Inc. USA. Fifth Edition). Cascio was relied upon in the Office Action for its teaching of a video resume. It was not relied upon for teaching the above-discussed shortcomings of the Salmon-Hoyt combination, nor could it be. As such, claims 5, 19 and 32 are allowable for at least those reasons discussed above relative to the independent claims. Withdrawal of this rejection is solicited.

Claim 27 stands rejected under 36 U.S.C. 103(a) as being unpatentable over Salmon in view of Hoyt in view of Skarbo (US Pat. No. 5,764,901). Skarbo is relied upon for adding teachings relative to teleprompting. Skarbo is not relied upon for filling the above-discussed shortcomings of the Salmon-Hoyt combination, nor could it be. As such, claim 27 is allowable for at least those reasons discussed above in connection with the independent claims. Withdrawal of this rejection is solicited.

Claim 36 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Salmon in view of Hoyt in view of Farris (US Pub. No. 2003/0208752). Farris is relied upon for adding teachings relative to the limitations of claim 36. Farris is not relied upon for filling the above-discussed shortcomings of the Salmon-Hoyt combination, nor could it be. As such, claim 36 is

allowable for at least those reasons discussed above in connection with the independent claims.

Withdrawal of this rejection is solicited.

Conclusion

In view of the foregoing amendments and remarks, allowance of this application containing claims 1-36 is requested.

Request for Interview

In the event that the Examiner finds any reason that the application cannot be allowed in its present form, the Applicant wishes to conduct an interview with the Examiner prior to any next Office Action in order to provide an opportunity for coming to agreement upon allowable claims. To arrange the interview, the Examiner should call the undersigned attorney at the telephone number given.

Respectfully submitted,

By 

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